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MISCELLANEOUS DOCUMENTS

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LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

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September 26, 2014

Captain Duane Harris
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

Re: J.S.I.D. File #14-0169
L.A.S.D. File #014-04509-1126-055

Dear Captain Harris,

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 16, 2014, non-fatal shooting of Dajuan Spears by Los Angeles Sheriff's Department (LASD) Deputy Lewis Orantes. We have concluded that Deputy Orantes acted in lawful self-defense.

The District Attorney Command Center was notified of this incident on March 16, 2014. The District Attorney Response Team (DART), comprised of Deputy District Attorney Geoffrey Rendon and Senior Investigator [redacted] responded to the scene, was given a walkthrough and participated in witness interviews.

The following analysis is based upon reports, photographs, and recordings submitted to this office by LASD Homicide Investigators Frank Salerno and Ron Duval. The voluntary statement of Deputy Orantes was considered as part of this analysis.

FACTUAL ANALYSIS

On March 16, 2014, shortly after 4:00 p.m., LASD Deputies Lawrence Lynch and Lewis Orantes were assigned to handle a radio call of a person screaming at the Sunset Ridge Apartments, located at [redacted] 16th Street West in the City of Lancaster. Lynch and Orantes were in uniform, driving separate black and white patrol cars. The location was within a large apartment complex comprised of multiple two-story structures.

Statement of Deputy Lawrence Lynch

Deputy Lawrence Lynch drove into the complex from the north and looked for address numbers affixed to the buildings. Lynch eventually turned westbound on an interior street. An

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unidentified male pedestrian told Lynch that a person wearing brown shorts was hurt and directed Lynch further down the street. Lynch continued driving west and saw Dajuan Spears walking amongst cars in a carport. Lynch's view of Spears' hands was blocked by cars and Lynch thought Spears could direct him to the injured person.

Lynch got to within 15-20 yards of Spears when, suddenly, Spears walked around a parked truck and ran at a full sprint towards Lynch's patrol car. Spears was holding a handgun and fired at Lynch. Lynch saw the muzzle flash from Spears' gun. Lynch could not exit the patrol car, put the car in reverse and "floored it." Spears sprinted towards Lynch, who continued to hear gunshots. Lynch was able to get away from Spears, who had stopped running. Lynch broadcast that he was being shot at.

Spears changed direction and ran westbound. As Spears continued to run, Lynch heard multiple gunshots and saw Spears shooting in a northerly direction. Spears dropped his gun and ran to the upper exterior landing of an apartment. Deputy Orantes came into view and chased Spears to the apartment. Lynch had not seen Orantes previously.

Lynch drove west and parked his vehicle over Spears gun, which was on the ground. Lynch exited his patrol car and ran to Orantes. The deputies pointed their service weapons at Spears, who was at the top of the stairway leading to what was later determined to be his apartment. Spears was bleeding from the forearm, had his hands out and told the deputies that he was not armed. The deputies ordered Spears to come down the stairs. Spears complied with the deputies' orders and was taken into custody.

Spears sustained gunshot wounds to his right hand and arm during the incident.

Lynch told investigators that he did not hear any rounds strike his patrol car and was unsure how many rounds Spears fired at him.

Statement of Deputy Lewis Orantes

As Deputy Lewis Orantes responded to the apartment complex, the radio call was updated to a gunshot victim call. A description of the suspect was also provided. Orantes requested an aero unit, but was told that an aero unit was not available. Orantes entered the complex and drove south on 16th Street West. Additional information sent via the radio directed Orantes to a particular address, which he began to search for. Orantes contacted the driver of a passing vehicle and asked if the person had seen anyone matching the suspect's description in the area. The driver told Orantes that he had seen a person matching the suspect's description south of their location.

Orantes drove south on an interior street within the complex. As Orantes drove, he saw Spears approximately 50 yards in front of him. Spears was running from west to east, out of Orantes' view. Orantes withdrew his department-issued 9mm Beretta and opened the driver's side door of his vehicle. Orantes approached the intersection of the streets and heard a series of "pops."

Spears suddenly appeared and ran westbound. Spears looked at Orantes and raised his right hand. Orantes heard a gunshot and saw the flash of a gun's muzzle in Spears' hand. Spears was approximately 15-20 feet from Orantes.

Orantes exited his patrol car and, fearing for his life, fired multiple rounds at Spears. Orantes had not put the car in park, and the vehicle rolled south on the street. Spears ran west between parked cars and onto the sidewalk. Orantes broadcast that he was involved in a shooting and saw Spears run to an upstairs apartment. Spears yelled to someone inside the apartment, "Let me in! Let me in!"

Orantes ordered Spears to, "Get on the ground!" and "Drop the gun!" Spears replied that he did not have the gun anymore and got on the ground. Lynch arrived to Orantes' side and the deputies detained Spears at gunpoint until additional deputies arrived and took Spears into custody.

Statement of [redacted]

[redacted] was Spears' [redacted] The two had dated for four and a half years prior to the date of this incident. The couple have a [redacted], who was [redacted] at the time. Spears had been living out of state for work since January 2014. Spears returned to California the previous day, March 15, 2014, to attend two court hearings.

On the morning of the incident, [redacted] Spears, and their [redacted] drove to Marina del Rey for a brunch to celebrate [redacted] birthday. While there, the couple got into an argument and a physical altercation which led to them returning to their residence in separate cars with a couple who they had met for brunch.

[redacted] arrived at the residence first; Spears arrived approximately 15 minutes later. Spears was visibly angry and walked into their bedroom. [redacted] heard something slam, walked into the bedroom and saw that Spears had dumped some of her clothes on the floor. [redacted] exited the bedroom and Spears followed. Spears stood in the doorway, swaying. The other couple left the apartment.

[redacted] placed her [redacted] in his crib and began to pick up the clothes that Spears had thrown on the floor. Spears walked on top of the clothes and removed some of his own clothes from a dresser. [redacted] picked up some of Spears' jeans and threw them out of a kitchen window to the ground below.

Spears followed [redacted] into the kitchen and pushed her. The two pushed each other back and forth. [redacted] walked away and retrieved a hammer from a toolbox. From behind, Spears placed his right arm around [redacted] neck and choked her. [redacted] could not breathe and hit Spears in the head with the hammer approximately three times. [redacted] and Spears rolled on the floor and [redacted] tried to stand up. As [redacted] was getting up, Spears hit her in the face and back of the

head with his fist. [redacted] ran to the bathroom and Spears followed her. Spears had a gun in his hand and cocked the hammer. [redacted] yelled for help and pleaded, "Please don't shoot."

[redacted] walked out of the front door of the apartment onto a landing at the top of stairwell. [redacted] pleaded with Spears to stop what he was doing; Spears replied, "I don't give a fuck about this!" and fired a shot into the air.

[redacted] walked down the stairs and Spears went into the apartment. [redacted] saw a couple nearby, yelled for help and told them to call 9-1-1. A neighbor peered out of a window and [redacted] told the person, "Please call 9-1-1! He has a gun and my [redacted]"

Spears exited the apartment, carrying his [redacted] on his left hip and holding the gun in his right hand. Spears told [redacted] "This is what you wanted!" [redacted] asked Spears to give their [redacted] to her. Spears kissed his [redacted] and told him, "This is what your [redacted] wanted." Spears told his [redacted] that he loved him and that his [redacted] ([redacted]) was crazy. Spears handed his [redacted] to [redacted] and told her to tell his [redacted] he loved him.

Spears removed the belongings from his pants pockets and placed them onto the trunk of a parked car. Spears gave [redacted] the passcodes to his credit cards and told her to take all of his property, including his next paycheck. [redacted] told Spears to put the gun down and warned him he would go to jail. Spears replied that he, "Wasn't taking a gun charge."

[redacted] took her [redacted] back to the apartment and locked the door. [redacted] looked outside and saw Spears pacing back and forth outside. Spears was cursing and calling [redacted] names. A father and two girls walked close to Spears, who told them to get away from the area.

[redacted] opened the front door, went outside and told Spears that she had called his [redacted] Spears started to walk up the stairs and [redacted] ran back into the apartment and locked the door. Spears told [redacted] to open the door, but she refused to let him in. Spears told [redacted] to call his [redacted] and to tell her he loved her.

To an unknown person, Spears said, "Call the cops, bitch! Tell the cops to come, bitch!" After a few minutes of quiet, [redacted] went outside and saw Spears walking west on the south sidewalk. It appeared that Spears was looking for someone.

[redacted] returned to her kitchen window and heard two gunshots and the screech of a car's tires. Approximately 30-60 seconds later, [redacted] heard six to seven additional shots. [redacted] heard deputies yelling and Spears ran up the stairway and yelled, "Open the door!" [redacted] refused to let Spears in and heard Spears tell the deputies, "I have no more gun!" The deputies told Spears to "scoot" down the stairs. Spears complied with the deputies' orders and was taken into custody.

Spears and [redacted] had been in physical altercations in the past, but the police were never called.

Statement of Deputy Andrew Banos

Deputy Banos responded to the apartment complex following the deputy involved shooting. Banos accompanied Spears in an ambulance as Spears was taken to the hospital for treatment for his injuries. When Banos entered the ambulance, Spears apologized to him for shooting at the deputies and thanked Banos for the service that the deputies do for the community.

Spears stated that he was having an argument with his [redacted] and she tried to hit him with a hammer. Spears fired a shot into the air to try to keep her from hitting him. When deputies arrived at the location, Spears fired four shots in their direction. Spears told Banos that he was ex-military and it was not in his nature to retreat. After firing at the deputies, Spears tried to flee and realized he had been shot in the hand.

While in the emergency room, Spears told a doctor that he was shot by the police, but had fired at them first.

Spears' statements to Banos and the doctor were not recorded.

Statement of [redacted]

At approximately 4:00 p.m. [redacted] and his [redacted] returned to their apartment, which was located in a building a short distance from Spears'. [redacted] saw Spears and [redacted] arguing. Shortly thereafter, [redacted] heard a single gunshot. [redacted] saw [redacted] run into the street, holding a baby. [redacted] yelled, "Call 9-1-1!" [redacted] climbed the stairs to his apartment and called 9-1-1.

[redacted] saw Spears walking back and forth underneath a nearby carport. A couple minutes later, a police car arrived and drove west, towards Spears. Spears ran into the street, towards the police car. The police car traveled in reverse and the tires screeched. Spears chased the police car. [redacted] could not see Spears' hands and Spears got to within 5-10 feet of the police car. [redacted] heard a series of gunshots and went inside his apartment. After a pause, [redacted] heard additional gunshots. [redacted] remained inside his apartment until additional police vehicles arrived.

Statement of [redacted]

[redacted] was in a downstairs apartment with his children, in the same building as Spears' residence, when he heard stomping from an outdoor stairway and a woman [redacted] frantically screaming. [redacted] looked out a window and saw a pile of clothes lying on the ground. [redacted] yelled, "Call 9-1-1!" [redacted] saw Spears pacing in front of the apartment building. He had a firearm tucked into the right side of his waistband and was bleeding from his head. [redacted] and Spears yelled back and forth. Spears said, to an unknown person, "I'll bust at you! When the police come, I'm going to bust at the police!"

[redacted] left the front of his residence and checked on his [redacted] Approximately five to six minutes later, [redacted] heard multiple gunshots. [redacted] heard the deputies order Spears to not move and, "Put your hands up!" Spears replied, "I'm not going to shoot! I don't have the gun on me." The deputies ordered Spears to slide down the stairs. Spears complied with their commands and was taken into custody.

Statement of [redacted]

[redacted] was in the parking lot outside his apartment with his [redacted] and [redacted] when he heard Spears and [redacted] arguing inside an upstairs apartment. Spears and [redacted] came outside and continued to argue. [redacted] heard what he thought was a firecracker; his [redacted] told him it was a gunshot. Shortly thereafter, [redacted] heard [redacted] scream, "You hurt my [redacted] You hurt my [redacted] Call 9-1-1!" Spears replied, "Call 9-1-1! Fuck the po-po! I'll just start shooting at them, too!"

Approximately ten minutes later, [redacted] saw a police car driving down the street. Spears was holding a black gun and fired a shot at the police car. The police car quickly accelerated in reverse. Spears chased after the police car and continued to fire his gun at the deputy.

[redacted] saw a second police car driving south. The deputy driving the car opened the car door and [redacted] went into his apartment. [redacted] did not see Spears nor hear any more gunshots. A few minutes later, [redacted] went back outside and saw Spears handcuffed and surrounded by deputies.

[redacted] also saw Spears chasing Deputy Lynch's patrol car with his right arm extended towards the car and heard six gunshots. Moments later, a second patrol car arrived and [redacted] heard four to five more gunshots.

Statement of [redacted]

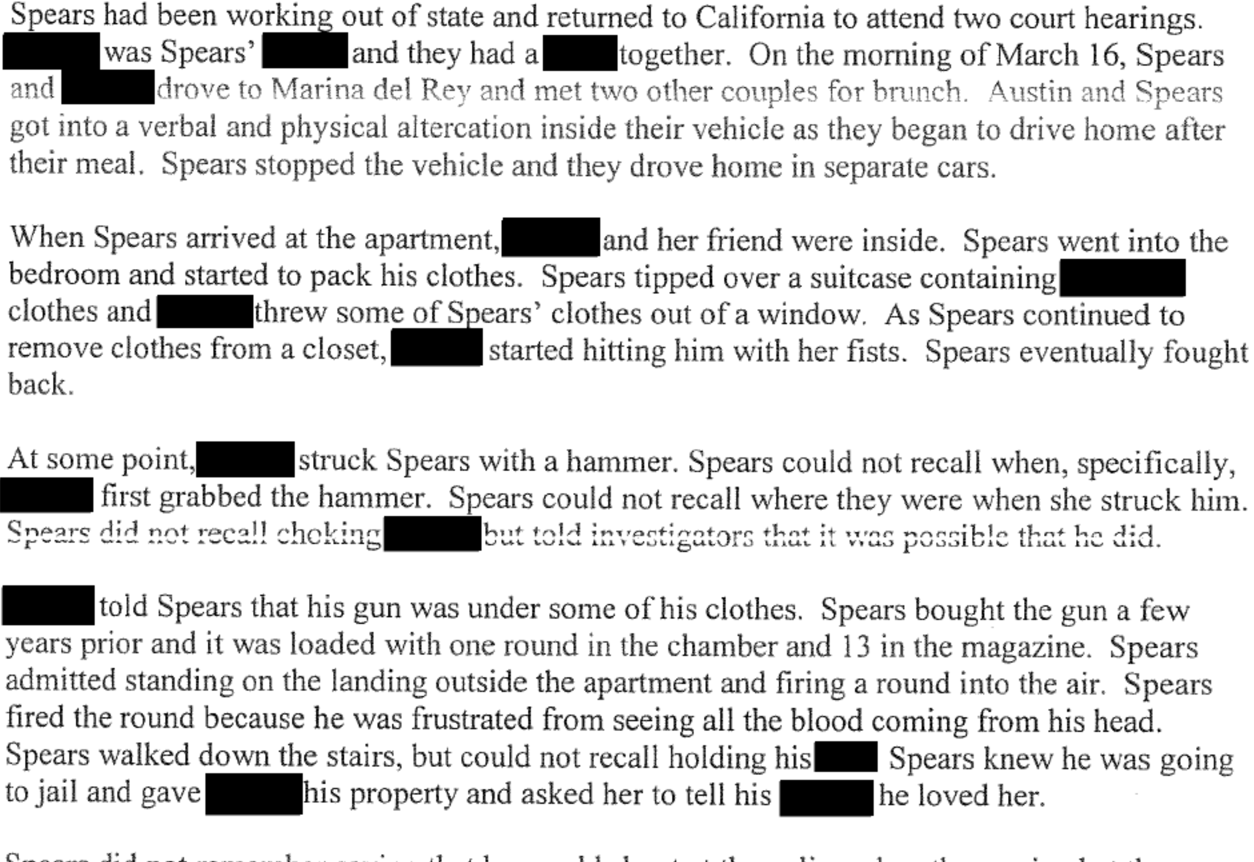
[redacted] was inside his apartment, doing laundry, when he heard a noise that he later believed to be a single gunshot. Several minutes later, [redacted] and his [redacted] left the apartment to walk to a store. [redacted] saw Spears nearby. Spears looked angry and was bleeding from his head.

[redacted] and his [redacted] walked away and encountered a sheriff's deputy in a patrol vehicle. [redacted] told the deputy that there was a person nearby who had blood on his head. The deputy drove west toward Spears. Moments later, [redacted] heard six to seven gunshots and the tires of the police car squealing in reverse. [redacted] saw Spears running towards the police car. Spears was holding a gun and shooting at the police car. [redacted] heard six to seven shots.

[redacted] and his [redacted] ran away from the location and found a friend driving a car nearby. [redacted] and his [redacted] got into the car and [redacted] heard six to seven more gunshots.

Statement of Dajaun Spears

Investigators interviewed Spears at Antelope Valley Hospital where he was being treated for his injuries. Spears waived his Miranda rights and spoke to investigators. The interview was recorded.



Spears had been working out of state and returned to California to attend two court hearings. [redacted] was Spears' [redacted] and they had a [redacted] together. On the morning of March 16, Spears and [redacted] drove to Marina del Rey and met two other couples for brunch. Austin and Spears got into a verbal and physical altercation inside their vehicle as they began to drive home after their meal. Spears stopped the vehicle and they drove home in separate cars.

When Spears arrived at the apartment, [redacted] and her friend were inside. Spears went into the bedroom and started to pack his clothes. Spears tipped over a suitcase containing [redacted] clothes and [redacted] threw some of Spears' clothes out of a window. As Spears continued to remove clothes from a closet, [redacted] started hitting him with her fists. Spears eventually fought back.

At some point, [redacted] struck Spears with a hammer. Spears could not recall when, specifically, [redacted] first grabbed the hammer. Spears could not recall where they were when she struck him. Spears did not recall choking [redacted] but told investigators that it was possible that he did.

[redacted] told Spears that his gun was under some of his clothes. Spears bought the gun a few years prior and it was loaded with one round in the chamber and 13 in the magazine. Spears admitted standing on the landing outside the apartment and firing a round into the air. Spears fired the round because he was frustrated from seeing all the blood coming from his head. Spears walked down the stairs, but could not recall holding his [redacted] Spears knew he was going to jail and gave [redacted] his property and asked her to tell his [redacted] he loved her.

Spears did not remember saying that he would shoot at the police when they arrived at the complex. Spears told investigators that he did not remember when the police arrived, nor chasing after a patrol car and shooting at it. Spears did not know how he got shot nor what happened to his gun. Spears held the gun in his right hand, which was the same hand that got shot.

On the drive to the hospital, Spears told a deputy that he was an infantryman in the United States Army and was trained not to retreat. While in the military, Spears received training with long rifles, but not pistols, and had never fired the gun prior to this incident. Spears stated that he did not remember anything about the incident after firing a round into the air.

Investigators asked Spears if he would ever shoot at the police, to which Spears replied, "Would I? If I felt I had to, yeah." When asked if he felt like he had to shoot at the police during the incident, Spears stated, "I don't know. Maybe." Spears stated that he did not intend to get killed by the police.

Additional Witness Statements

Multiple independent civilian witnesses saw or heard portions of the incident that were consistent with the statements of the deputies and witnesses described above.

Forensic Evidence

Beneath Lynch's patrol vehicle, investigators located Spears' .380 caliber semi-automatic handgun. A live round was in the chamber and nine additional rounds were loaded in the magazine, which had a capacity of 13 rounds. An expended "R-P 380 auto" cartridge case was located on the landing outside Spears' apartment. Two additional expended "R-P 380 auto" casings were located in a planter in a carport area near the apartment building.

At the scene of the incident, investigators located nine expended 9mm casings, which are consistent with the ammunition fired from Orantes' gun. Two additional expended 9mm casings were subsequently located inside Orantes' patrol vehicle.

Criminal Charges

As a result of his actions described herein, Spears is charged in MA062434 with two counts of attempted murder of a police officer, in violation of Penal Code section 664/187; two counts of assault on a police officer, in violation of Penal Code section 245(a)(2); assault with a firearm, in violation of Penal Code section 245(b); infliction of corporal injury on a girlfriend or parent of a child, in violation of Penal Code section 273.5(a); child abuse, in violation of Penal Code section 273a; and, negligent discharge of a firearm, in violation of Penal Code section 246.3.

In those legal proceedings, a doubt has been declared as to Spears' competency pursuant to Penal Code section 1368, and the case has been stayed pending further proceedings.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense if it reasonably appears to the person claiming the right of self-defense that he actually and reasonably believed he was in imminent danger of great bodily injury or death. The belief in the need to defend oneself must be both actual and reasonable.

"[T]he rule is well established that one who, without fault, is placed under circumstances sufficient to excite the fears of a reasonable man that another designs to commit a felony or some great bodily injury and to afford grounds for a reasonable belief of imminent danger, may act upon those fears alone and may slay his assailant and be justified by appearances."[1]

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[1] *People v. Mercer* (1962) 210 Cal. App. 2d 153, 161.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent injury which appears to be imminent.[2]

"Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety."[3]

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments -- in circumstances that are tense, uncertain, and rapidly evolving -- about the amount of force that is necessary in a particular situation."[4]

The Fourth Amendment reasonableness test is, "an objective one: the question is whether the officer's actions are 'objectively reasonable' in light of the facts and circumstances confronting them."[5] The analysis must take into account the officer's perceptions as part of the totality of the circumstances.[6]

In *Graham*, the United States Supreme Court held that the reasonableness of the force used "requires careful attention to the facts and circumstances" of the particular incident. "...Thus, under *Graham*, we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes 'reasonable' action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure."[7]

The test of whether the officer's actions were objectively reasonable is "highly deferential to the police officer's need to protect himself and others."[8]

CONCLUSION

The evidence examined shows that on the afternoon of March 16, 2014, LASD Deputies Lawrence Lynch and Lewis Orantes responded to a radio call involving a person screaming at an apartment complex. The call was later updated and referenced a gun. Lynch was the first to arrive and drove his patrol car through the complex looking for a possible suspect. Lynch saw Spears from a distance. Without warning, Spears ran between parked cars and sprinted at Lynch. Lynch quickly accelerated in reverse, squealing the tires of his patrol vehicle. Spears raised a

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[2] CALCRIM No. 3470.
[3] *People v Collins*, (1961) 189 Cal. App.2d 575.
[4] *Graham v. Conner*, (1989) 490 U.S. 386, 396-397.
[5] *Graham v. Connor* (Supra) 490 U.S. at 396.
[6] *Milstead v. Kibler* (1999) 1999 U.S. Dist Lexis 8380.
[7] *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347.
[8] *Munoz v. City of Union City* (2004) 120 Cal. App. 4th 1077, 1102.

gun and fired at Lynch. Neither Lynch nor the patrol vehicle was struck. Lynch was able to travel far enough away that Spears stopped chasing him.

Spears walked back in the direction of his apartment and encountered Deputy Orantes, who was driving southbound, perpendicular to the street that Lynch was on. Spears raised his gun and pointed it at Orantes. Orantes believed that Spears fired at him. In fear for his life, Orantes exited his patrol car and fired at Spears. Spears was struck in the hand, dropped the gun and fled. Spears was detained without further incident.

Spears later admitted shooting at the deputies, and stated he shot four times. Prior to the shooting, witnesses heard Spears state that he would shoot at the deputies if, and when, they arrived.

Although a discrepancy exists regarding the number of shots Spears believed he had fired, the number of shots witnesses heard, or saw, and the number of casings recovered that had been discharged from Spears' gun, the discrepancy does not change the evaluation. Under the circumstances set forth above, even if Spears had merely raised his gun towards Orantes without shooting, Orantes was justified in using deadly force.

Based on the evaluation set forth above, we conclude that Deputy Orantes acted in lawful self-defense when he used deadly force against Spears. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

JACKIE LACEY
District Attorney

By

GEOFFREY RENDON
Deputy District Attorney
(213)974-3888

c: Deputy Lewis Orantes, #[redacted]